

Thomas, Felicia

From: (b) (6)
Sent: Wednesday, April 24, 2013 5:08 PM
To: DeGering, Tracy
Subject: Individual Permit:

Categories: Responded To This Email

Tracy,

I have been informed by Diane Green of the Idaho Dept. of Lands, through which party I have an active exploration/location lease, that I will need to apply for an individual permit. I am hereby requesting the individual permit, as I have been disqualified from the general permit and I have not violated the Clean Water Act. I am applying to dredge in the Salmon River and on State Lands. I would have gladly made this request one week ago on 4-17-2013, but instead you directed me to the State agency to be the initiating agency, and then told them that it was impossible. I am requesting the individual permit and could you please send it right away?

The Supreme Court has stated "...the transfer of polluted water between two parts of the same water body does not constitute a discharge of pollutants under the Clean Water Act. 541 U. S., at 109-112. We derive that determination from the CWA's text, which defines the term 'discharge of a pollutant' to mean '**any addition of any pollutant to** navigable water from any point source'. 33 U.S.C. ()1362(12). Under a common understanding of the meaning of the word 'add,' no pollutants are 'added' to a water body when water is merely transferred between different portions of that water body." The decision was unanimous and the Supreme Court case has a number and if you need the name, I can look it up for you.

If you intend to use the words, "rocks and sand", then I would suggest that you go to the Clean Rocks And Sand Act. I have informed you that the Clean Water Act is not to be used in this way.

Don Smith

(b) (6)